

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RICARDO DELACRUZ CABUGAWAN,

Plaintiff,

v.

MONICA DANA, HR BUSINESS
PARTNER

Defendant.

Case No. 3:24-cv-00251-MMD-CSD

ORDER

Pro se Plaintiff Ricardo Delacruz Cabugawan attempted to sue an HR Business Partner, Defendant Monica Dana, at his former employer Panasonic, for race, age, and disability discrimination. (ECF No. 5.) On November 25, 2024, the Court noted in an order that Cabugawan had not filed an amended complaint consistent with the Court's prior order (ECF No. 7) and thus gave him another 30 days to try again or face dismissal (ECF No. 9). That deadline expired and Cabugawan did not update file an amended complaint consistent with the Court's last two orders. As further explained below, the Court will accordingly dismiss this case.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party's failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order). In determining

1 whether to dismiss an action on one of these grounds, the Court must consider: (1) the
2 public's interest in expeditious resolution of litigation; (2) the Court's need to manage its
3 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition
4 of cases on their merits; and (5) the availability of less drastic alternatives. See *In re*
5 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
6 *Malone*, 833 F.2d at 130).

7 The first two factors, the public's interest in expeditiously resolving this litigation
8 and the Court's interest in managing its docket, weigh in favor of dismissal of
9 Cabugawan's case. The third factor, risk of prejudice to Defendants, also weighs in favor
10 of dismissal because a presumption of injury arises from the occurrence of unreasonable
11 delay in filing a pleading ordered by the court or prosecuting an action. See *Anderson v.*
12 *Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring
13 disposition of cases on their merits—is greatly outweighed by the factors favoring
14 dismissal.

15 The fifth factor requires the Court to consider whether less drastic alternatives can
16 be used to correct the party's failure that brought about the Court's need to consider
17 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
18 that considering less drastic alternatives *before* the party has disobeyed a court order
19 does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
20 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
21 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court's
22 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
23 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
24 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
25 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
26 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and
27 unless Cabugawan files a viable amended complaint, the only alternative is to enter an
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1 additional order setting another deadline. But the reality of repeating an ignored order is
2 that it often only delays the inevitable and squanders the Court's finite resources. And
3 indeed, the Court already gave Cabugawan another chance. (ECF No. 9.) Setting another
4 deadline is not a meaningful alternative given these circumstances. So the fifth factor
5 favors dismissal.

6 Having thoroughly considered these dismissal factors, the Court finds that they
7 weigh in favor of dismissal.

8 It is therefore ordered that this action is dismissed, in its entirety and with prejudice,
9 based on Cabugawan's failure to file an amended complaint consistent with the Court's
10 October 18, 2024, and November 25, 2024, orders.

11 The Clerk of Court is directed to enter judgment accordingly and close this case.
12 No other documents may be filed in this now-closed case.

13 DATED THIS 30th Day of December 2024.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written over a horizontal line.

MIRANDA M. DU
UNITED STATES DISTRICT JUDGE